
LETTER
TO THE
CHAMBER OF COMMERCE

RELATIVE TO THE
Water Front of the City
OF
New York.

BY
SIMON STEVENS.

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61 BROADWAY, NEW YORK,
May 6, 1885.

JAMES M. BROWN, ESQ.,
PRESIDENT OF THE CHAMBER OF COMMERCE,
NEW YORK.

Sir :—

I desire to present to the Chamber of Commerce some statements as to the condition of the piers and wharves of the New York water front, and to ask serious consideration of questions affecting the commerce of this port, controlled, to some extent, by the City of New York, acting officially by the Department of Docks, which Department exercises the rights, powers and duties of the Corporation in improving the water front.

By virtue of the Dongan charter, in 1686, the Crown of England granted to the City of New York, then a municipal corporation, all the land between high and low water mark around the Island of Manhattan, with jurisdiction over the same, with power to take in, fill and make up and lay out all and singular the land

and grounds in and about said City and Island Manhattan, and the same to build upon or make use of in any other manner or way as to them shall seem fit, as far into the rivers thereof, and that encompass the same, as low water mark aforesaid.

By the Montgomerie Charter, in 1730, the Crown further granted a strip of land, four hundred feet in width, lying immediately outside of low water mark, extending from Corlear's Hook (now Jackson Street), on the East River, around the southern extremity of the Island to Bestaver's rivulet (excepting, however, the space in front of the Battery), with full power and authority at any time thereafter to fill, make up, wharf, and lay out all and every part thereof, and to take the wharfage, and cranage and dockage arising or accruing therefrom ; but it was provided in said charter that nothing therein contained should empower or entitle the city to wharf out before any persons who had prior wharf grants beyond low water mark, without the actual agreement or consent of such persons, and that of the wharfs to be built or run out by the city, there should be left, towards the East and North rivers, forty feet broad for the convenience of trade and the planting of batteries in case of necessity.

Under these charters the City of New York took the fee of the land under water and the rights to build wharves and docks thereon, and to take and have the wharfage accruing therefrom, and at an early day made many grants, to divers private persons, of these same lands under water, with the right to said private parties to make wharves, and take the wharfage, dockage, cranage, emoluments, etc., accruing therefrom ; such grants extended out into the rivers to unequal distances, within the ownership of the city.

It is admitted that by the act of April 3d, 1798, as well as under acts prior thereto, general authority was conferred upon the city to lay out and construct wharves, and the general system seems to have been for the city to convey the lands under water to individuals, requiring them to fill up the land and construct wharves, with the right to receive the wharfage and other emoluments and advantages arising therefrom, which system was repeatedly recognized by the Legislature.

The fifteenth section of the Act passed April 3, 1807, contains this preamble : " And whereas, for the purpose of duly regulating and constructing slips and basins, and for running out wharves and

piers, it is essential that the right to the land under water, below low water mark, should be vested in the corporation of the city of New York." And to accomplish the purpose thus indicated, the act authorized the Commissioners of the Land Office to grant to the city, forever, the land under water described in the act. While the land was to be granted to the city to enable it to regulate and construct wharves, etc., the final clause of the section recognized the right and power of the city to grant the lands to individuals to accomplish the purpose intended, by giving the pre-emptive right to the proprietors of the adjacent uplands.

Under the two charters and the course of legislation referred to, the city acquired all the title to the land granted, which the Crown of England or the State could convey, and it also acquired all the rights to fill up such lands, and build wharves thereon and receive the wharfage and other advantages therefor, which the sovereign authority could give it.

Taking the language of the charters and grants, the course of legislation, and all the Statutes in *pari materia*, the situation of the lands granted and the use to which many portions of them had, with the knowledge and consent of the Legislature, been from time to time devoted, it is clear that the lands under water around the city were conveyed to it in fee to enable it to fill them up as the interest of the city might require, and to regulate and control the wharf and wharfage.

Whatever title and property rights the city thus obtained it could transfer and convey to individuals. Having the power to extend the *ripa* around the city, and thus make dry land, it could authorize any individual to do it. Whatever wharfs and docks it could build it could authorize individuals to build, and whatever wharfage it could take it could authorize individuals to take. Its dominion over the lands under water, for the purpose indicated in the preamble contained in Section 15, above cited, was complete.

It has always been admitted that the grants made by the city to private individuals vested in them severally the absolute fee of the land granted ; and that they could fill up the land under water and thus become the owners of the dry land ; and it has also been admitted that said grantees or their successors in title did fill up the said land under water so as to make it dry land and built the streets, wharves, and piers as provided or covenanted for in said

grants, or prescribed by city ordinances, and have, at their own proper cost “forever thereafter upheld, maintained, sustained, kept them in good and sufficient manner and condition”; and that South and West Streets have always been for the free and common use of the inhabitants of the City of New York. The grantees or their successors in title, having observed, performed, fulfilled and kept according to the true meaning and purport, the covenants reserved in said grants, the said several acts of the Legislature and the ordinances of the Common Council in relation thereto from time to time, thus became entitled to and did take and now hold to their own proper use all and all manner of wharfage, dockage, crantage, average profits, benefits, and advantages arising therefrom forever.

The grants made by the city, to private persons, of land between high and low water mark which it had acquired by the Dongan Charter, were generally uniform in character. As a specimen of such grants, I refer you to one given to Miles Foster, October 12, 1698, recorded in the Comptroller's Office with other Water Grants.

For grants made by the city under the Montgomerie Charter in 1768 to 1771, only to parties having pre-emptory rights on Water Street, which were generally of uniform character, I refer you to the Elizabeth Richards grant of July 10, 1769.

For a series of grants, all of a similar character, made by the city to private parties having pre-emptory rights on Front Street, between Old Slip and Coffee House Slip (now Wall Street), see the one to Theophilact Bache, dated March 21, 1775.

These two grants, one to Elizabeth Richards, and the other to Theo. Bache, embraced in their length the whole width of the 400 feet of “land under water” laying out beyond Dock and Water Streets, acquired by the city under the Montgomerie Charter. Upon the outer end of said lands thus granted, a street of 40 feet in width was to be built by the grantees, and to be known as South Street.

In 1795, when it was proposed to make South and West Streets 70 feet wide instead of 40 feet, it was ascertained by investigation that the Common Council could not compel the

proprietors to build South Street 70 feet wide, because the additional 30 feet would be upon land under water belonging to the State, outside of their grants, and to which the city then had no title. In consequence of the foregoing state of facts the Common Council, on the 12th of February, 1798, petitioned the Legislature of the State of New York, which petition represented that "as well for the ornament and improvement of the city as for the encouragement of the trade and commerce of the State and the safety of the shipping at the wharfs of the city," for a confirmation of the city's acts in ordering a street of seventy feet in width to be made.

The same petition further represented that part of the plan of the petitioners was to extend piers at right angles from the permanent streets into the rivers, so constructed as to admit the currents at both ebb and flow in both rivers to wash away all dirt and filth from the wharfs and thereby render the health of the inhabitants of the city more safe and secure. This petition also represented that the Common Council had doubts as to its authority to compel individual proprietors of the wharfs to sink and lay out those piers, without incurring a breach of the conditions and covenants contained in the grants to individuals.

In response to this petition the Legislature, on the 3d day of April, 1798, passed "An Act concerning certain streets, wharfs and piers, &c., in the City of New York. See Laws, 1798.

The Act reciting in several whereases, substantially the body of the petition of the Common Council, provided that the city might lawfully lay out according to such plans as it shall or may agree upon or determine, such streets or wharves as in the petition mentioned, in front of those parts of the city which adjoin to the said rivers, and of such extent along these rivers respectively as they may think proper, and authorized the city to lengthen and extend the streets and wharves, according to said plan by and at the expense of the proprietors of land adjoining or nearest and opposite to the said street or wharves in proportion to the breadth of their several lots, and provided penalties for those who omitted or refused to fill up and level, at their own expense, according to such plan and within the time prescribed.

The same Act provided that the city could direct piers to be sunk and completed at such distances and in such manner as it

might in its discretion think proper, in front of the said streets or wharves at the expense of the proprietors of the lots laying opposite to the places where such piers shall be directed to be sunk.

And provided further that every clause, covenant and condition in the several grants of the city to the said proprietors respectively, or those under whom they claim, to be kept, observed or performed by the grantees respectively, and their heirs, &c., notwithstanding this Act, were to and did retain their full force and validity and were in no manner to be affected by the said Act or anything to be done or performed in consequence thereof; and as to the city's rights, powers and privileges as grantees they were not to be broken or to infringe any of the covenants or conditions on their part.

It was enacted that no building of any kind or description whatsoever (other than the said piers and bridges) shall at any time hereafter be erected upon the said streets or wharves, or between them respectively, and the rivers to which they respectively front and adjoin.

On the 18th of May, 1801, the Common Council requested the Recorder of the city to examine the law in regard to many of the grants then under consideration, and he reported that neither the Act of 1798 nor any Act vested in the Corporation any title to land outside of the 400 feet granted by the Montgomerie Charter, nor with any right to impose a quit-rent of such land.

In 1803 sundry citizens, owners of water lots on East River, petitioned for authority to build piers under the Act of 1798 and the ordinances of the Common Council. Their petition was granted and piers were built accordingly, and the wharfage and other emoluments thereof are enjoyed by their successors in title to this day without dispute.

In 1806 the Legislature authorized the city to construct additional slips and basins and to take itself the wharfage from them. The first section of said Act contains the following provision :

“PROVIDED always, that nothing herein contained shall be construed to deprive any person who may have made piers by the direction of the said Mayor, Aldermen and Commonalty in pursuance of an Act for regulating the buildings, streets and wharfs and slips in the City of New York, of any legal right

which they may have thereby acquired, or to interfere with any private property or right or privilege held under grants of the said Mayor, Aldermen and Commonalty or otherwise."

On the 3d of April, 1807, an Act was passed in the Legislature relating to the map or plan of the City, wherein the XV Section provided for the duly regulating and constructing slips and basins, and for running out wharves and piers, and declaring that it was essential that the right to the land under water, below low water mark, should be vested in the Corporation of the City of New York; but it was "PROVIDED ALWAYS" therein also "that the proprietor or proprietors of the lands adjacent shall have the pre-emptive right in all grants made by the Corporation of the said city of any lands under water granted to the said Corporation under this Act."

The administration of the city's affairs, so far as relates to the water front, about the year seventeen hundred and ninety-eight, assumed an even tenor and the same was substantially followed up to the time when the Legislature passed the Act known as Chapter 574 of the Laws of 1871, to which you are referred for specific details.

In summarizing that Act, however, I may say that the Department of Docks was organized in 1870, and by subdivision 2 of Section 6 of Chapter 574 of the Law of 1871, to it was given exclusive charge and control, subject in certain particulars to the approval of the "Commissioners of the Sinking Fund," of all wharf property belonging to the Corporation of the City of New York, including all the wharves, piers, bulk-heads and structures thereon, and waters adjacent thereto, and all the slips, basins, docks, water front and land under water and structures thereon, and the appurtenances, easements, uses reversions and rights belonging thereto, to which said Corporation is or may become entitled, or which said Corporation may acquire under the provisions of this law or otherwise, and said Department was placed in exclusive charge and control of the repairing, building, rebuilding, maintaining, altering, strengthening, leasing and protecting said property, and every part thereof, and of all the cleaning, dredging and deepening necessary in and about the same, and the said Department was also invested with the exclusive government and regulation of all wharves, piers, bulk-

heads and structures thereon, and waters adjacent thereto, and all the basins, slips and docks with the land under water in said city not owned by said Corporation.

By subdivision 4 of said Section 6 of Chapter 574 of Laws of 1871, the Department of Docks was authorized to acquire, in the name and for the benefit of the Corporation of the City of New York, any and all wharf property in said city to which the Corporation of the City of New York then had no right or title, and any rights, terms, easements and privileges pertaining to any wharf property in said City, and not owned by said Corporation, and said Board may acquire the same either by purchase or by process of law. Said Board may agree with the owners of any such property, rights, terms, easements and privileges, upon a price for the same, and shall certify such agreement to the Commissioners of the Sinking Fund, and if said Commissioners approve of such agreement said Board shall take from such owners, at such price, the necessary conveyances and covenants for vesting such property, rights, terms, easements or privileges in, and assuring the same to the Mayor, Aldermen and Commonalty of the City of New York forever, and said owners shall be paid from the City Treasury as hereinafter provided. If the said Board shall deem it proper that the said Corporation should acquire possession of any such wharf property, rights, terms, easements and privileges, for which no price can be agreed upon between the owners thereof and the said Board, the said Board may direct the Counsel to the Corporation of said city to take legal proceedings to acquire the same for the Mayor, Aldermen and Commonalty of said city, and the said Counsel to the Corporation shall take the same proceedings to acquire the same as are by law provided for the taking of private property in said city for public streets or places, and the provisions of law relating to the taking of private property for public streets or places in said city are hereby made applicable, as far as may be necessary, to the acquiring of the said property, rights, terms, easements and privileges, and said Board is also empowered to acquire, in like manner, the title to lands under water and uplands as shall seem to said Board necessary to be taken for the improvement of the water front.

Subdivision 5 of Section 6 of the same law provides that when the plans mentioned in subdivision 3 of the same section shall have been adopted by the Commissioners of the Sinking Fund, the

Board of the Department of Docks shall proceed, according to said plans, to lay out, establish and construct wharves, piers, bulkheads, docks or slips, in the territory or district embraced in such plan or plans, and in, and upon or about the property owned by the Mayor, Aldermen and Commonalty of the City of New York, without interfering with the property or rights of any other person, except so far as may be necessary to insure the safety and stability of the wharves, piers, bulkheads, basins or slips, so to be constructed, and said Board may commence such construction in sections of said territory or district, from time to time, so as not to seriously incommode the commerce of the City.

Subdivision 10 of Section 6 of the same law authorizes the Commissioners of the Land Office to convey by proper instruments in writing necessary for the purpose, all the property, right, title and interest of the People of the State of New York in and to the land under water *used and taken* by the said Board for the construction of wharves, docks, piers, bulkheads, basins and slips, under this Act, whenever it may be required by said Board to make such conveyance to the Mayor, Aldermen and Commonalty of the City of New York.

By the same Act of the Legislature the Department of Docks was authorized to expend a sum not exceeding \$3,000,000 per annum, in accomplishing the purposes contemplated by the Act.

Pursuant to these provisions of law, elaborate surveys were made, and plans prepared, after much study, and at a great expense, and were approved by the Commissioners of the Sinking Fund. The works of improvement were commenced, but have progressed slowly for the reason that the claims of alleged owners of private rights and property were not acknowledged and respected. The plans adopted by the Department of Docks contemplated, in brief, the widening of West and South Streets, on the outer side, by piling or filling out into the rivers, so that their total width should be 250 feet on West Street, and 200 feet on South Street, and the building of new piers generally of greater width and length than those now existing. It will, of course, be seen that to carry out this plan practically involves the demolition of all the old existing piers and bulkheads, within its limits, whether public or private.

The piers and bulkheads along the water front of the City of New York, although they are, with few exceptions, like the streets

of the city, public structures in their nature and in their uses, yet they have one characteristic of private property, which constitutes their whole value as such—that is, that the “wharfage” arising from them belongs to their respective owners.

These private rights all arose under one system and in substantially the same manner.

Shortly before the beginning of the present century, about the year 1798, a system of piers and bulkheads came into existence, resulting from the concurrent action of the City Government and the Legislature, and that system prevailed up to the time of the adoption of the plans of 1871. It contemplated the establishment of 70 foot exterior streets (the present West and South Streets), and the extension of piers therefrom. The title to the water lots extending to these streets was generally in the city, and sometimes also the land beyond them on which the piers were built. The Act of the Legislature gave permission for the establishment of the street where it should rest on public ungranted land under water belonging to the State, and provided for the building of the piers by private owners of water lots on the exterior streets, with the permission of the City Government, and for the retention of wharfage by them as a recompense for doing so, and the city, in its grants of these water lots, provided that the grantees should build the exterior streets, and should have the wharfage and cranage forever that should arise from them, or from the bulkheads built along their outer edge, and enforced and permitted the building of bulkheads and piers by resolution of the Common Council.

Under this system nearly all the water front, including exterior streets, bulkheads and piers, was built up. In some cases the city authorities did not make any private grant of the right, but built the structures themselves with public money, and so retained the whole wharfage, or else joined with the private owners and retained a part, so that many of the piers and bulkheads, in whole or in part, became and still are city property.

But all the private wharfage rights along the water front were the result of “water grants,” to aid the building of the exterior streets and piers by private owners, by the authority of the Legislature, and of the City Government, under the provisions of their acts. It cannot be doubted that these rights were the “property”

which the lawmakers had in view, and for the acquisition of which, by purchase or condemnation, they made provision by the Act of 1871.

Within a short time after the adoption of the new plans, under the laws of 1871, the Department of Docks commenced to put them into execution by destroying the old piers and filling up the old slips. In this work no recognition was made in any instance of the rights of private owners whose wharves and piers were demolished or made useless. On the contrary, the position was taken by the Department, under advice of the then Counsel to the Corporation, that its powers, under the law, were so extended that all private rights thus interfered with were not "perpetual" in their nature, but were subject to be terminated at the city's will and pleasure. It was insisted that these private rights were not meant to be permanent when they were created, that neither the city nor the State had power to grant permanent rights, and that therefore these grants contained necessarily an implied reservation of power by the city or State to terminate the rights under them at any time, by filling up in front of them whenever it should be the judgment (whim or caprice, whatever it may be called) of the authorities, that it was necessary or advisable to do so.

In support of this contention, it was urged that the "grants" did not contain the word "forever" or some equivalent expression, but generally were for the wharfage arising from the structure to be erected, and that thereby it was the intention of the grantor to leave the rights of the private owners to the mercy of the city authorities whenever it chose to demolish these structures.

It may readily be supposed that when the city authorities began to put these ideas into practical execution, on West Street between Canal and West Eleventh Street, the property owners did not delay in taking measures for the protection of their rights. Some few permitted the invasion and brought suits or made claims against the city for the resulting damage. In the majority of cases, however, a preventive remedy was availed of, so that, after a time, it became the regular course for the Department of Docks to commence to fill the slip or drive piles in front of it, and for the wharf owner to obtain a preliminary injunction from the Court against its action. After a while, the Department, seeing that its operations were constantly interfered with, ceased

to prosecute the work of improvement in that manner. Of the various suits that have been brought, several have come before the Courts. One, involving the rights in the water front on the North River, between 26th and 27th Streets, has been argued in the United States Circuit Court and decided adversely to the city. The same result has been reached in the same Court in a suit involving a slightly different state of facts on the East River, between 49th and 51st Streets. The only one of all the suits brought that has ever reached the Court of last resort in this State, is that of Langdon against the Mayor, etc., decided early in October, 1883. This litigation involved the rights of the successors to the title of John Jacob Astor, under grant to him in 1810, of a water lot at the northeast corner of West and King Streets. This, suit, after a decision favorable to the city by the single judge who first heard it, and a reversal of that decision on appeal to the General Term, was carried to the Court of Appeals by the city, and the judgment of the General Term was affirmed by a unanimous Court and the position of the private owners was fully sustained.

Several points were settled by the opinion of the Court in this case :

1. That grants of wharfage to accrue from wharves built by private parties, made under the water front system in question, whether made by the Legislature or by the city, are perpetual in their duration and not revokable by the action of the public authorities.

2. The private rights created by these acts are in their nature "property," and are protected by the Constitution.

3. Not only, therefore, was it not the intention of the Legislature that these rights should be over-ridden by the powers conferred by the Acts of 1870-1871, but they are constitutionally protected from such a result ; and, moreover, it was the design of the Legislature that compensation should be made for them when they were interfered with.

In the case in question the only thing involved was a "Bulkhead Grant" along West Street. The decision is, of course, an authority so far as the facts go. There was no pier, so that if there were any substantial difference between the character of the grants under which piers were built, the question as to the piers would not have been decided.

But all these grants, both of piers and bulkheads, are essentially similar, the only difference being that the grants of bulkheads are evidenced by a sealed instrument and those of piers by Act of the Legislature and a resolution of the Common Council. And the application of the decision is equally forcible whether the land under water in front of the bulkheads belongs to the State or the city. The Court expressly says in the Langdon Case that grants of this character, if made by the State are as permanent and as binding as if made by the city. And all the piers that the city had granted it has granted under the direction and as the agent of the State. Hence, the absurdity of supposing an intention on the part of the authorities to give the character of permanency and that status of "property" to the private rights in some of the wharf structures, and denying it to others erected under the same system, is manifest at once.

The Law Department of the city, however, refuses to accept the effect of this decision in any case except where the facts are precisely identical with those then before the Court. They refuse to extend its application to other cases to which, by clear analogy, it may properly be extended.

Acting under the decision in the Langdon case the Department of Docks has only purchased about 450 feet on North River below Canal Street. The private owners who have obtained injunctions are well satisfied with the condition of affairs and do not care to take any affirmative steps. It would take years to bring any other existing litigation involving these questions to a final hearing either in the Court of Appeals or the Supreme Court of the United States, except by an agreed case.

Such being the condition of affairs, no substantial progress will be made so long as the city law authorities continue in their present attitude. Their condition is a constant menace to the wharf and pier owners. Capitalists, with characteristic timidity, will not purchase their rights, and could not improve them if they had them, without the consent of the Dock Department.

The Department of Docks has, since its organization in 1870 up to May, 1884, expended a total of \$10,773,363.93, which includes the sum of \$203,530 paid for the Inman Pier on North River purchased by the city, and includes also the cost of widening

and paving West Street 180 feet, between Canal and West 10th Streets, a distance of nearly 3,000 feet, and building fifteen new piers. The damages to private property in that locality yet remain to be settled and paid.

In the same time the city has received from leased wharfs and wharfages, the sum of \$10,365,215.99, only \$408,147.94 less than the gross receipts. ^{disbursements} The receipts from wharfage and leases for the year ending May 1, 1884, amounted to \$1,246,858.19, and the expenditures for the same time amounted to \$760,106.80, which is \$486,751.39 less than receipts for that year.

Since May 1st, 1884, the city has acquired 425 feet of bulkhead on North River between Harrison and Hubert Streets, at a cost of \$260,562.50, and has paid as damages for filling in front of property above Canal Street, \$52,387.50, to all of which has to be added on purchase account the sum of \$862.75 for incidentals, and \$14,250 for the bulkhead known as the Drake property.

The city has paid no other claims for damages that I am aware of, occasioned by the widening of West Street on North River between Canal and West Eleventh Streets. The damages claimed by private parties average somewhere from about \$600 to \$750 per lineal foot of bulkhead, which the city will, some day have to provide for.

There are to-day, according to the Assessment Rolls in the office of the Tax Commissioners, 6,420 lineal feet of bulkhead on East River between Whitehall Street and the Brooklyn Bridge of which 2,659 feet is private property, and 3,761 feet of similar property belongs to the City of New York. The city's valuation of the 2,659 feet of private property is \$1,361,900, or a trifle over \$500 per foot. The city's valuation of its own 3,761 feet of property is put at \$3,468,000 or a trifle over \$900 per lineal foot, which is nearly double that of private property, and is marked exempt from taxation.

On the North River, between the Battery and West 11th Street, private owners, according to the same rolls, have 6,150 lineal feet, and the city owns 5,126 feet, including 995 feet of sea wall, at the Battery. The valuation of the private property is \$3,458,400, or say about \$562 per lineal foot, and the valuation of

the city's property is \$4,867,660, a trifle over \$950 per lineal foot, which is nearly double that of private property and of a precisely similar class.

The bulkheads on North and East Rivers are each valued on the general approximate basis of \$360 per lineal foot, while in reality there is a recognized difference in their relative values of at least 40% in favor of North River.

The new piers recently built on North River, between Canal and West 10th Streets, where the street is already widened and paved, are valued on the same assessment roll at about \$150,000 each, while they rent for \$30,000 and upwards each per annum, with the obligation of the lessee to shed and maintain the piers and keep them in repair.

The city paid the Inman Line of Steamers for its old pier, above Canal Street, the sum of \$203,530, and after widening the street 180 feet and building a new pier and bulkhead at a cost of about \$55,000 for the pier, and say \$350 per lineal foot of bulkhead—the question may be asked, why this property now renting as it does at about 18% on its actual cost, is not valued on the rolls at more than one-half of its original cost to the city.

It goes without saying that the permanent improvements of the New York water front that have been made by the Department of Docks, have not been made with that economy that would have resulted had the private owners been first settled with by the city, amicably, or by condemnation proceedings, as provided for by Chapter 574 of the Laws of 1871. The Department of Docks has been, heretofore, seriously crippled by the rulings of the Law Department, but, as I have already stated, the decision in the Langdon case, after nearly or quite ten years' litigation, in which the city was overruled, has had its beneficial results.

However, it is now claimed substantially, by the Counsel to the Corporation, that the city, by the Department of Docks, has the right to build bulkheads on land under water in East River, directly in front of bulkheads that have been built by private owners, under grants from the City of New York, with rights to collect wharfage "forever," and to cut off the private owners from their rights and privileges of wharfage, without com-

pensation, even where the grantees and their successors in title have built and maintained the bulkheads and piers, and collected wharfage from them for over seventy-five years. The Counsel to the Corporation has admitted, however, that as long as the bulkheads and piers belonging to private owners remain as they do to-day, the private owner's right to enjoy the wharfage and other emoluments cannot be interfered with, but nevertheless claims that the city can at any time, build in front of the private bulkheads and cut off access to them and to the piers, and totally destroy their business. This opinion is reiterated, notwithstanding the contrary doctrine is laid down by the Court of Appeals, in the case of *Langdon v. The Mayor*, etc.

I have, after extensive research, and with considerable care, ascertained an approximation to the probable cost of improving the water front from West 11th Street to the Battery, and from Whitehall Street to Brooklyn Bridge, including the purchase of private property, and that which has already been improved.

NORTH RIVER.

From the Battery, Pier 1, to West Eleventh Street, 10,800 ft.

Of which, approximately, there is

City property..... 4,600 feet.

Private property 6,200 “ ———10,800 “

Cost of widening West Street 180 feet, so as to make it 250 feet wide when finished, building bulkhead and filling in and paving, or 10,800 feet at \$350 per lineal foot..... \$3,780,000

Building 47 piers at an average cost of \$50,000 per pier 2,350,000

To re-imburse private owners for say 6,200 feet at say \$650 per lineal foot..... 4,030,000

To pay for 25 piers belonging to private parties at \$150,000 each 3,750,000

Total for improvements on North River.. \$13,910,000

EAST RIVER.

From Whitehall Street to Brooklyn Bridge.....	6,411 ft
Approximately, private property....	2,658 feet.
“ city “	3,753 “ —6,411 “
Cost of widening South Street 130 feet, to make it 200 feet wide, building bulkhead, filling in and paving same, say 6,411 feet at \$300 per lineal ft.,	\$1,923,300
Building 24 piers averaging \$50,000 each, say.....	1,200,000
To re-imburse private owners for 2,658 lineal feet of bulkhead, including piers at \$1,000 per foot.....	2,658,000
Total for improvements on East River below the Brooklyn Bridge.....	\$5,781,300

RECAPITULATION.

For improvements on property on North River, in- cluding purchase of private property.....	\$13,910,000
For improvements on East River, including purchase of private property.....	5,781,300
Total between West Eleventh Street and Brooklyn Bridge.....	\$19,691,300
	2,000,000
From which deduct permanent improvements already indicated, etc., leaves a total of.....	\$17,691.300

One of the piers recently built on North River was rented two years ago at auction at \$70,000 per annum ; other new piers above and below No. 37 are rented for \$30,000 per annum. All these rentals are in addition to shedding, repairs and maintenance at the expense of the lessee.

All of these rentals are too high ; any rental above \$25,000 is an unwarranted tax upon shipping ; but what relief can the Dock Department give to commerce as long as so many technical legal difficulties are interposed, preventing its acquisition of private pier or wharf rights ?

If the city had acquired the private property on the water front on North and East Rivers, authorized by Chapter 574 of the Laws of 1871, and rented the 47 piers on North River at say an average of \$25,000 each, that rental would have produced a revenue of..... \$1,175,000
 Rent of bulkheads on North River, say, 250,000
 24 piers on E. River. say at \$20,000 each, 480,000
 Rent of bulkheads on East River, say, 50,000—\$1,955,000
 or, say a total income of 10 per cent. on the purchase of private property, and the cost of improvements between West Eleventh Street, North River and Brooklyn Bridge, East River.

I have the honor to be, sir,

With great respect,

Yours truly,

SIMON STEVENS.



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